

Application No.: 09/801,983  
Reply to final Office Action of: July 25, 2006

## **REMARKS**

This amendment is responsive to the office action dated April 10, 2007. Claims 1-27 are pending. Claims 1-5 and 8-10 are allowed and claims 6, 7, and 11-27 stand rejected. The Examiner's allowance of Claims 1-5 and 8-10 is appreciated. The remaining rejected claims 6, 7, and 11-27 are amended to overcome the 35 U.S.C. Section 112 and 103 rejections. Reconsideration of the rejected claims is respectfully requested.

### ***35 U.S.C. § 112 Rejections***

In paragraph 5 of the office action, the Examiner indicated that claims 6-7 would be allowable if rewritten to overcome the rejections under 35 U.S.C. Section 112 and to include all of the limitations of the base claim and any intervening claims. Applicant has addressed each of stated bases for rejecting claims 6 and 8 under 35 U.S. C. Section 112. In addition, claims 6 and 7 have been amended to include all the limitations of the base claims as the Examiner requires. Allowance of claims 6 and 7 is respectfully requested.

In addition, Applicant has amended claims 21, 23, and 27 to address the stated bases for the 35 U.S.C. Section 112 rejection. Claims 22 and 24 depend on claims 21 and 23, respectively, thus, the Applicant's amendments to claim 21 and 23 address the rejection under 35 U.S.C. Section 112 of these dependent claims.

### ***35 U.S.C. § 103 Rejections***

In paragraph 8 of the office action, the Examiner maintains the rejections indicating that claims 11-27 are rejected under 35 U.S.C. Section 103 (a) as unpatentable over Vong et al. (U.S. Patent No. 6,209,011) and Chari et al. (U.S. Patent No. 6,553,416). Respectfully, Applicant disagrees with the Examiner's rationale for combining the references because Chari does not offer a predictable variation of the teaching in Vong.

The Supreme Court set the standard for evaluating obviousness in its recent decision (*KSR International Co. v. Teleflex Inc. et al.* (550 U.S. 127 S. Ct. 1727 (2007)) to be "expansive and flexible" and "functional." But, the standard is not controlling. Instead the various noted

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factors only “can” or “might” be indicative of obviousness based on the facts. The Supreme Court in *KSR* enunciated the following principles:

“[w]hen a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, Section 103 likely bars it patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill....[A] court must ask whether **the improvement is more than the predictable use of prior art elements according to their established functions.**

The Supreme Court in *KSR* also stated that:

a patent composed of several elements is not proved obvious merely by demonstrating that **each of its elements was independently known in the prior art.**

The Supreme Court in *KSR* has also stated that:

**[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the market place.**

Further, the Supreme Court stated in *KSR* that:

The Court [in *United States v. Adams*, 383 U.S. 39, 51-52 (1966)] relied upon the corollary principle that when **the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious.**

Nevertheless, Applicant has amended claims 11 and 18 to explicitly recite that the *“attention requests that have been cleared are deleted simultaneously upon display of the notification requests.”* That feature is clearly absent in the combination of Vong and Chari. Accordingly, claims 11 and 18 are distinct from the combination and in a condition for allowance. Claims 12-17 and 19-27 are distinct by virtue of their dependency on claims 11 and 18.

### ***Conclusion***

Application No.: 09/801,983  
Reply to final Office Action of: July 25, 2006

Applicants respectfully requests the Examiner to consider the amendments and legal reasoning urged here and to allow this application.

Respectfully submitted,

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